

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

January 24, 2007

**I.
PLEDGE OF
ALLEGIANCE**

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Ali-Santosa, Ciardella, Mandal, Sandhu, and Williams
Absent: Azevedo and Tabladillo
Staff: Bejines, Carrington, Hom, Lowe, Maxwell Pio Roda and Reliford

**III.
PUBLIC FORUM**

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers from the audience.

**IV.
APPROVAL OF MINUTES
January 10, 2007**

Chair Williams called for approval of the minutes of the Planning Commission Subcommittee meeting of January 10, 2007.

Staff had no changes.

Motion to approve the Subcommittee minutes of January 10, 2007.

M/S: Williams/Ciardella

AYES: 2

NOES: 0

ABSTENTION: 1 (Mandal)

Chair Williams called for approval of the minutes of the Planning Commission meeting of January 10, 2007.

Staff had no changes.

Motion to approve the minutes of January 10, 2007.

M/S: Sandhu/Mandal

AYES: 5

NOES: 0

**V.
ANNOUNCEMENTS**

Staff had no announcements.

**VI.
CONFLICT
OF INTEREST**

Assistant City Attorney Pio Roda asked if the Commission has any personal or financial conflict of interest on tonight's agenda.

There were no Commissioners that identified a conflict of interest.

**VII.
APPROVAL OF
AGENDA**

Chair Williams called for approval of the agenda.

Staff has no changes to the agenda.

Motion to approve the agenda.

M/S: Ciardella/Ali-Santosa

AYES: 5

NOES: 0

**VIII.
CONSENT CALENDAR**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Staff had no changes.

Vice Chair Mandal requested that Item No. 2 ("S" Zone Amendment No. SA2007-2 and Use Permit Amendment No. UA2007-1), Item No. 4 ("S" Zone Amendment No. SA2006-62) and Item No. 7 (Use Permit No. UP2006-21 and "S" Zone Amendment No. SA2006-66) be added to the consent calendar.

Commissioner Sandhu requested that Item No. 1 (Use Permit No. UP2006-22 and "S" Zone No. SZ2007-1) be added to the consent calendar.

Chair Williams opened the public hearing on Item No. 1. There were no speakers from the audience.

Motion to close the public hearing on Item No. 1, continue to a date uncertain and readvertise.

M/S: Mandal/Sandhu

AYES: 5

NOES: 0

Chair Williams opened the public hearing on Item No. 2.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Sandhu/Mandal

AYES: 5

NOES: 0

Motion to approve consent Item No. 2.

M/S: Mandal/Sandhu

AYES: 5

NOES: 0

For Item No. 4, Commissioner Ciardella pointed out the following change staff recommended for condition no. 17 noted in the staff report:

- *It is the responsibility of the developer to obtain any necessary encroachment permits or approvals from affected agencies or private parties including but not limited to the property owner on the South for the closing of the private access and EVA gate installation. Copies of these approvals or permits must be submitted to the City of Milpitas Engineering Division.*

Chair Williams opened the public hearing on Item No. 4. There was one speaker from the audience.

Assistant City Attorney Pio Roda pointed out that Item No. 4 is not a public hearing item.

Motion to approve Consent Item No. 4 with amended condition No. 17.

M/S: Sandhu/Mandal

AYES: 5

NOES: 0

Chair Williams opened the public hearing on Item No. 7. There were no speakers from the audience.

Motion to close the public hearing on Item No. 7.

M/S: Sandhu/Ciardella

AYES: 5

NOES: 0

Motion to approve Consent Item No. 7.

M/S: Mandal/Sandhu

AYES: 5

NOES: 0

***1 USE PERMIT NO. UP2006-22 AND “S” ZONE NO. SZ2007-1:** A request for a 101-unit affordable apartment project in three, four-story buildings located on 2.69 acres at 1666 South Main Street. The Use Permit application requests a reduction in the number of required parking spaces for residents and guests, crediting on-street parking spaces as guest parking, modifications to required building setbacks from public streets and reduction in private open space. *(Recommendation: Close the public hearing, continue to a date uncertain and readvertise)*

***2 “S” ZONE AMENDMENT NO. SA2007-2 AND USE PERMIT AMENDMENT NO. UA2007-1 (Continued from January 10, 2007):** A request to amend special condition No. 50 to reflect a storm water connection fee for the ten acre Piercey Toyota project rather than the entire sixteen acres owned by Santa Clara County. The project is located at 950 Thompson Street. *(Recommendation: Approve the revision of Special Condition No. 50 relating to the calculation of storm water connection fees)*

- *4 **“S” ZONE AMENDMENT NO. SA2006-62:** A request for a sign program and a 4-foot high double-sided monument sign for the Calaveras Plaza. The property is located at 750 E. Calaveras Boulevard. (*Recommendation: Approve with Conditions*)
- *7 **USE PERMIT NO. UP2006-21 AND "S" ZONE AMENDMENT NO. SA2006-66:** A request to locate a roofing contractor's office and yard with minor site modifications located at 182 Topaz Street. (*Recommendation: Approve with Conditions*)

IX. PUBLIC HEARING

1. USE PERMIT NO. UP2006-23

Kristine Lowe, Associate Planner, presented a request for a coffee café (Peet's Coffee and Tea) to occupy an approximate 1,600 square foot tenant space within the existing Town Center Shopping Center, adjacent to the Safeway supermarket. The project includes 26 indoor seats and six (6) outdoor seats. The proposed café is located at 543 E. Calaveras Boulevard. Mrs. Lowe recommended approval with conditions.

Vice Chair Mandal asked if there would be outside seating arrangements for Peet's coffee. Mrs. Lowe said there is a small outdoor area and that includes six parking spaces for the project.

Vice Chair Mandal asked what happens if they want to add more seats outside. Mrs. Lowe said that it would require a Use Permit Amendment.

Commissioner Sandhu had a question regarding the following parking calculation on page 3 of the staff report and asked staff how they came up with the 1 parking space.

Parking

The number of seats proposed under this Conditional Use Permit is 32. The City requires one (1) space per 2.5 seats for the seating or table / dining area (indoor and outdoor) plus one (1) space for 50 square feet of net floor area for the ordering / take-out area. The total number of parking spaces required for the restaurant is 14 parking spaces calculated below

- *32 seats divided by 2.5 parking spaces per seat = 12.8 = 13 parking spaces; plus*
- *85.78 square feet divided by 50 square feet take-out area = 1.71 = 1 parking space*
- ***13 + 1 = 14 parking spaces required***

Mrs. Lowe said in the parking ordinance, there is a threshold that anything more than .75 and above moves up to the next parking space so in this case it is just under the 1.75 threshold so it just remains one parking space.

Chair Williams said he is concerned about coffee establishments and parking especially to avoid future impacts.

Mrs. Lowe showed the Commission the site plan where the parking spaces are located.

Chair Williams introduced the applicant.

Jeff Haywood, Construction Manager for Peet's Coffee, 1400 Park Avenue, Emeryville, CA, said in regards to parking concerns, Peet's will be opened from 5:30 a.m. to 9 p.m. with peak hours between 6 a.m. and 10 a.m. with to go orders being about 80 to 85% of the business. Peet's doesn't have wireless internet and the average customer stay averages about 15 to 20 minutes. He also noted that Shapell has not allocated timed parking.

Vice Chair Mandal asked if this is the first Peet's coffee in Milpitas? Mr. Haywood said yes and the next closest coffee house is in Santa Clara, about 8 miles away.

Vice Chair Mandal asked who would maintain the area outside of Peet's.

Kelly Erardi, Shapell Homes, 100 N. Milpitas Blvd., said the shopping center is maintained by Shapell and there is at least one maintenance employee available during peak hours and Shapell also has a contract with parking lot sweepers.

Commissioner Tabladillo said she raised her concerns with other coffee shops about their establishment being opened until 9 p.m. and asked if the tenant will have signs outside stating no loitering in the area.

Mr. Haywood said he has no problems putting signs outside the establishment however it is up to the owner.

Mr. Erardi said that they would cooperate with staff to word the signs so they are enforceable. He said they go through this with skateboarding and other nuisances if they are not properly monitored. At a coffee shop, you are going to have people hang out, and at some point it comes to a point where it becomes unattractive.

Commissioner Tabladillo said that she wants to give the tools necessary to law enforcement so they can do their job and also to the shopkeeper so they would have the ability to move the undesirable individuals out and have their customers be safe.

Chair Williams added that the signs give leverage for those who are unemployed and solicit customers.

Commissioner Ciardella asked the applicant to show the Commission their finish boards. The applicant showed color samples and photos to the Commission.

Chair Williams opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Sandhu/Ciardella

AYES: 6

NOES: 0

Motion to approve Use Permit No. UP2006-23 based on the findings and special conditions in the staff report.

Commissioner Tabladillo asked that the loitering signs be included as part of the motion.

Felix Reliford, Principal Planner, suggested that the loitering signs be added as a special condition of approval.

Commissioner Ciardella asked if the rest of the shopping center would have loitering signs or would it be just in front of Peet's coffee shop.

Mr. Erardi suggested that staff have a six-month review instead of requiring the signs. He said that people like to hang out at coffee shops and he doesn't want to discourage that. He said the police department is always patrolling the town center and he has never had problems.

Mr. Reliford said that the commission may wish to consider a six-month review and if staff receives any concerns or complaints at that point in time, staff will work with the applicant to install the appropriate signs to address the issue.

Motion to approve Use Permit No. UP2006-23 based on the findings and special conditions in the staff report and the new added condition:

- *Six months after issuance of Certificate of Occupancy, Staff shall conduct a review of this establishment to ensure all the requirements of the zoning ordinance have been met and that adequate signage with regards to loitering has been installed. (PC)*

M/S: Sandhu/Mandal

AYES: 6

NOES: 0

**2. USE PERMIT
AMENDMENT NO.
UA2006-10**

Kristine Lowe, Associate Planner, presented a request to allow an existing restaurant (La Sierra Mexican Restaurant) to serve all types of alcoholic beverages, increase operating hours and provide live entertainment and dancing located at 420 South Main Street. Mrs. Lowe recommends approval with conditions based on the findings in the staff report.

Chair Williams introduced the applicant.

Gabriel Zavalza, Applicant, Milpitas, said he wants to upgrade his business by adding liquor. He said his customers are demanding margaritas and he wants to keep them satisfied for the sake of his business.

Chair Williams opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Tabladillo/Ciardella

AYES: 6

NOES: 0

Motion to approve Use Permit Amendment No. UA2006-10 based on the findings and special conditions noted in the staff report.

M/S: Tabladillo/Mandal

Ayes: 6

Noes: 0

3. TIME EXTENSION NO. TE2006-2

Cindy Hom, Junior Planner, presented a request for a one-time 18-month time extension for a previously approved mixed-use development that includes 93 residential condominium units and approximately 2,633 sq. ft. of commercial space located at 230 N. Main Street. Ms. Hom recommend approval with conditions based on the findings in the staff report. Ms. Hom also pointed out the following corrections to the staff report:

- Page 3 of the staff report – Time Extension Request Section – staff revises the following to clarify the time extension approvals as described below:

“The approval of the 18-month time extension applies to the approvals for “S” Zone Approval No. SA2005-33 and Use Permit Amendment No. UA2005-10 and will expire July 24, 2008. A 12-month time extension approval would be granted for Major Tentative Map No. MA2005-3 as allowed by the Milpitas Subdivision Ordinance (XI-1-4.06).” and expire January 24, 2008.”

- Revise Condition No. 56 to state the following:

56. UTILITIES. Prior to building occupancy permit issuance the developer shall underground all existing wires on the utility poles number 2 to 5, and remove poles number 3, 4 and 5, as shown on the Engineering Services Exhibit “S”, dated 6/22/2004. All proposed utilities within the proposed development shall also be undergrounded. Within 60 days of City Council approval of this project, the developer shall make an application with PG&E for its service connections to this site. The applicant is also required to design, construct and coordinate its dry utilities (phone, electric, gas, cable, etc.) construction with Library project and other affected agencies including but not limited to PG&E. If mutually agreed, the City may underground the overhead wires between poles 2 and 5 and the developer is required to reimburse the City for the actual cost of this undergrounding. The undergrounding of overhead utilities is not covered by the fees described in Condition No. 52. (E)

- Revise Condition No 63 to state the following

63. UTILITIES. In accordance with Chapter 5, Title VIII (Ord. No. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping 2500 square feet or larger the developer shall:

~~a. Provide separate water meters for domestic water service & irrigation service. Developer is also encouraged to provide separate domestic meters for each tenant.~~

b. Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord. No. 238). Two sets of landscape documentation package shall be submitted by the developer or the landscape architect to the Building Division with the building permit plan check submittal. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection. (E)

- Delete Condition of Approval No. 69 (Vibration) as previously approved. Please see July 13, 2005 Planning Commission Meeting Minutes.

Chair Williams introduced the applicant.

Badru Valani, Applicant, said the project needed a time extension because of design issues and coordination with the library garage project on Weller and Main and due to the remediation project that Planning staff wanted to be monitored by environmental health. In order for them to monitor this program, he had to ask them to do this on a voluntary basis. In doing this whole process, that is why he is here for an extension.

Chair Williams recalled when he and Commissioner Sandhu approved the first mixed use development in the City and he has been anticipating its completion. He asked the applicant for clarification and noted that he has no problem with the extension and felt the project will enhance the ambiance of the area.

Vice Chair Mandal looked at the plan and is very excited about the plan and asked if the City can expedite the project.

Chair Williams opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Tabladillo/Sandhu

Ayes: 6

Noes: 0

Motion to approve Time Extension No. TE2006-2 for the Density Bonus, "S" Zone Approval Amendment No. SA2005-33, Use Permit Amendment No. UA2005-10 and Major Tentative Tract Parcel Map No. MA2005-3 based on the previous findings and special conditions.

M/S: Sandhu/Mandal

Ayes: 6

Noes: 0

Mr. Reliford introduced Tiffany Kunsman, new Junior Planner for the City of Milpitas Planning Division.

The meeting was adjourned at 7:56 p.m. to the next regular meeting of February 14, 2007.

X. ADJOURNMENT

Respectfully Submitted,

Felix Reliford
Principal Planner

Veronica Bejines
Recording Secretary